



Virginia  
Regulatory  
Town Hall

## Exempt Action Final Regulation Agency Background Document

<b>Agency Name:</b>	Dept. of Medical Assistance Services (12 VAC 30)
<b>VAC Chapter Number:</b>	Chapter 110
<b>Regulation Title:</b>	Married Institutionalized Individuals' Eligibility and Patient Pay
<b>Action Title:</b>	Spousal Impoverishment
<b>Date:</b>	02/09/2001

Where an agency or regulation is exempt in part or in whole from the requirements of the Administrative Process Act (§ 9-6.14:1 *et seq.* of the *Code of Virginia*) (APA), the agency may provide information pertaining to the action to be included on the Regulatory Town Hall. The agency must still comply the requirements of the Virginia Register Act (§ 9-6.18 *et seq.* of the *Code of Virginia*) and file with the Registrar and publish their regulations in a style and format conforming with the *Virginia Register Form, Style and Procedure Manual*. The agency must also comply with Executive Order Fifty-Eight (99) which requires an assessment of the regulation's impact on the institution of the family and family stability.

This agency background document may be used for actions exempt pursuant to § 9-6.14:4.1(C) at the final stage. Note that agency actions exempt pursuant to § 9-6.14:4.1(C) of the APA do not require filing with the Registrar at the proposed stage.

In addition, agency actions exempt pursuant to § 9-6.14:4.1(B) of the APA are not subject to the requirements of the Virginia Register Act (§ 9-6.18 *et seq.* of the *Code of Virginia*) and therefore are not subject to publication. Please refer to the *Virginia Register Form, Style and Procedure Manual* for more information.

### Summary

*Please provide a brief summary of the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation, instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

This action amends the state regulations concerning determination of Medicaid eligibility for married institutionalized individuals who have a community spouse to ensure conformance with §1924 of the Social Security Act. These regulations are essential to the public's health and welfare because, if elderly and disabled Virginians are unable to pay the high cost of long-term

care services without assistance, then the community spouses' financial security may be seriously threatened.

**Statement of Final Agency Action**

*Please provide a statement of the final action taken by the agency .including the date the action was taken, the name of the agency taking the action, and the title of the regulation.*

I hereby approve the foregoing Regulatory Review Summary with the attached State Plan pages and take the adoption Action stated therein. Because this final regulation is exempt from the public notice and comment requirements of the Administrative Process Act (§ 9-6.14:4.1 C), the Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

2/9/2001

Date

/s/ C. Mack Brankley

C. Mack Brankley, Acting Director

Dept. of Medical Assistance Services

**Additional Information**

*Please indicate that the text of the proposed regulation, the reporting forms the agency intends to incorporate or use in administering the proposed regulation, a copy of any documents to be incorporated by reference are attached.*

*Please state that the Office of the Attorney General (OAG) has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law. Note that the OAG’s certification is not required for Marine Resources Commission regulations.*

*If the exemption claimed falls under § 9-6.14:4.1(C) (4)(c) of the APA please include the federal law or regulations being relied upon for the final agency action.*

The regulations affected by this regulatory action are Spousal Impoverishment, to be re-named Married Institutionalized Individuals’ Eligibility and Patient Pay (12 VAC 30-40-80, 12VAC30-110-720 through 12VAC30-110-1011). The OAG approved this regulatory action as exempt from Article 2 of the Administrative Process Act and within the agency's scope of authority on February 6, 2001.

The current regulations were written in 1989 and reflected the understanding of the Social Security Act that existed at that time. Since 1989, there have been a number of court cases and careful reviews of the statute that have clarified a number of issues and identified omissions and inaccuracies in these existing state regulations. The purpose of this action is to more accurately conform the existing regulations to the requirements of the federal law. These regulations specify how local eligibility workers must evaluate the income and resources owned by couples when one spouse needs long-term care. Federal and state laws require that a portion of the

couple's resources be reserved for the support of the community spouse of an institutionalized individual. Failure to correctly allot a portion of the couple's resources to the community spouse could result in the impoverishment of the community spouse and prevent him or her from having sufficient income and resources to meet his or her basic health and maintenance needs.

Many provisions of the regulations were based upon federal guidance material issued immediately after the 1989 federal legislation was enacted. These preliminary guidelines have never been promulgated as federal regulations by the Health Care Financing Administration (HCFA) of the United States Department of Health and Human Services. During the last decade, state legislation, court decisions, and additional clarifying HCFA interpretations have occurred. In view of these events, a complete review of the spousal regulations identified several areas of the existing regulations that were not in compliance with the applicable federal law. These regulatory revisions are being made as a result of the identification of specific omissions and inaccuracies in the existing regulations.

A discussion follows, listed by section, of the changes contained in this regulatory action.

12 VAC 30-40-80 Dependent child.

12 VAC 30-40-80 and 12 VAC 30-110-720 give definitions of 'dependent child' which are not consistent. This regulatory action conforms the two definitions. The definition makes it clear that the dependent child may be the child of either spouse and may be either over or under the age of 21 years consistent with § 1924.

12VAC30-110-720 Definitions.

In order to ensure accurate application of the statute and these regulations, precise definitions are necessary. New definitions have been added to clarify and enhance the regulations. Some definitions have been revised to be more legally correct and more descriptive. Three definitions, "Community spouse maintenance needs allowance", "maintenance needs standard" and "other family member's maintenance needs allowance", have been deleted because the terminology did not conform to federal law. New definitions were substituted which conform more closely to the terminology of the federal law found at §1924 of the Act (U.S.C. §1396r-5).

"Actual monthly expenses".- The definition has been added to define what expenses are to be considered in determining the amount of the minimum monthly maintenance needs allowance required by §1924(d)(4)(A) of the Act.

"As soon as practicable".- The definition has been revised for clarity. Wording is added to clarify that the transfers of resources referred to in the definition are transfers of resources owned by the institutionalized spouse to the ownership of the community spouse necessary to make the community spouse resource allowance required by §1924(f)(2) of the Act. Wording is added to specify when the time period begins.

"At the beginning of the first continuous period of institutionalization" - Wording is added to clarify that the waiver service is a Medicaid community-based care waiver and that individuals electing hospice care are also treated as if they are institutionalized when eligibility is determined as required by 1902(a)(10)(A)(ii)(VII) of the Act.

“Community spouse” - The definition is reorganized for clarity.

“Community spouse maintenance needs allowance” - The definition is removed because it is incorrect. New definitions of a “community spouse monthly income allowance”, a “monthly maintenance needs standard” and a “minimum monthly maintenance needs allowance” have been added. These new definitions are more understandable and more clearly reflect the wording and requirements of §1924(d) of the Act.

“Community spouse monthly income allowance” - A new definition is added to comply with §1924(d)(3) of the Act.

“Community spouse resource allowance” - The definition is changed to clarify that the community spouse resource allowance relates to transfer of resources from the institutionalized spouse to the community spouse. The wording of the current definition has caused confusion and resulted in eligibility determination errors. Finally, the method by which the community spouse resource allowance is calculated is removed from the definition and placed in a regulation to be found at 12 VAC30-110-853. The amounts, \$60,000 and \$12,000, are removed. These amounts were set when §1924 was initially enacted. However, because of the statutorily mandated annual inflation factor, the actual amounts have changed in each subsequent year. Wording has been added in other sections of these regulations to reflect the method by which these amounts are calculated annually.

“Continuous period of institutionalization” - The definition is revised for clarity.

“Countable resources” - The word “Couple’s” is added to the term being defined to clarify that all resources owned by either spouse must be evaluated if they are determined to be countable as required by §1924(c)(5) of the Act.

“Excess shelter allowance” - The definition is simplified for clarity. A definition of “actual monthly expenses” was added in this section so this definition could be more understandable and more accurately reflect the requirements of §1924(d)(4) of the Act.

“Excess shelter standard” - A definition is added to comply with §1924(d)(4)(B) of the Social Security Act. The statute does not actually use this term; however, in order to calculate the excess shelter allowance, first a calculation of 30% of the amount specified in §1924(d)(3)(A)(i) must be determined. For clarity, the resulting amount derived from this calculation is being termed the “excess shelter standard.” The purpose of creating this definition is to ensure that the regulations correctly reflect the mandated calculations of accurate community spousal monthly income allowances.

“Family member’s income allowance” - A definition was added to comply with §1924(d)(1)(C) of the Act.

“First continuous period of institutionalization” - A definition was added to comply with §1924(c) of the Act. This definition is essential to specify the date on which the combined

resources of the institutionalized spouse and the community spouse must be determined for purposes of completing the mandated resource assessment and calculating the spousal share of resources.

“Initial determination” - For accuracy, the term "initial determination" was revised to “initial eligibility determination”. In addition the term “Medical assistance community-based care was added to identify the specific kind of waiver referenced in the definition.

“Institutionalized spouse” - The definition was revised for clarity and to add individuals electing hospice to those individuals who are regarded as “institutionalized” for the purpose of eligibility determination. This change was needed to comply with §1902(a)(10)(A)(ii)(VII) of the Act.

“Likely to remain in an institution” - The definition was added to comply with 1924(h) of the Act. In order to meet the definition of an institutionalized individual for purposes of these regulations, the individual must be found likely to be in a medical institution or community-based waiver for at least 30 consecutive days (§1924(h)(1)(A)). The definition is necessary to describe the objective criteria upon which the likelihood of continued institutionalization is judged. In addition, because the individual whose eligibility under these regulations is being determined may not actually have been admitted to institutional or waiver services at the time the decision is made, the regulation permits determination of “likelihood” to be made based upon medical information or screening authorization information made by knowledgeable entities qualified to make such a determination.

“Maximum spousal resource standard” - The definition is added to comply with §1924(f)(2)(A)(ii)(II) of the Act.

“Maintenance needs standard” - The definition is removed because other more precise and accurate definitions have been added.

“Minimum monthly maintenance needs allowance” - The definition is added to comply with §1924(d)(3) of the Act.

“Other family member’s maintenance allowance” – The definition is removed and replaced with the definition “family member’s income allowance”. The new definition more accurately reflects the wording in §1924(d) of the Act.

“Promptly assess resources” – The definition is revised to specify that prompt means within 45 days of the spouse’s request for a resource assessment. Without this addition, it is not possible to determine when the 45-day time limit begins and ends.

“Protected period” – The definition is added to reflect the period of time referred to in 12VAC30-110-860.

“Resource assessment” – The definition is revised to more closely reflect the requirements of §1924(c)(1)(A) of the Act.

“Resources” – The definition is added to reflect the requirements of §1924(c)(5) of the Act.

"Significant financial duress" - The definition is added to reflect the wording in the Code of Virginia §20-88.02:1 in order to clarify the meaning of the term used in 12 VAC30-110-1010.

“Spousal protected resource amount” - The definition is added to reflect the requirements of §1924(f)(2)(A) of the Act.

"Spousal resource standard” – The definition is revised to remove the outdated amount specified in 1989 when §1924 of the Act was enacted and replace it with a cross reference to the statutory provision mandating an annual recalculation of the value of the standard.

“Spousal share” – The definition is added to reflect §1924(c)(1) of the Act.

12VAC30-110-730 Applicability.

The regulation has been rewritten to clarify that these regulations apply only to the requirements for determining the resources and income of married institutionalized individuals who are receiving Medicaid institutional, home and community-based waiver services or hospice services, and who have a “community spouse”. The prior regulations did not include its applicability to individuals receiving hospice services. However, the provisions of §1924 were extended to individuals receiving hospice services because of the requirements of 1902(a)(10)(A)(ii)(VII) of the Act, which describes the optional categorically needy group as individuals:

? who would be eligible under the State Plan if they were in a medical institution;

? who are terminally ill; and

? who have elected hospice care as described in section 1905(o) of the Act.

The HCFA State Medicaid Manual, § 3581.1, requires States to employ the eligibility criteria, including institutional deeming rules that would be employed if the individual were in a Medicaid institution.

In addition, language was added to emphasize that these regulations supercede any other provision of Medicaid regulations that are inconsistent with them. However, except where specifically indicated, these regulations do not apply to determination of what constitutes income or resources or the methodology and standards for determining and evaluating income and resources. This emphasis is added to the regulations to reflect the requirements of §1924(a)(1) of the Act.

12VAC30-110-740 Resource assessment initiated.

This regulation is repealed. The provisions of this regulation are relocated to 12VAC30-110-744.

12VAC30-110-741 Resource assessment required.

This regulation is added to conform to the requirements of §1924(c)(1) of the Act that requires that a spousal share be computed at the beginning of the first continuous period of institutionalization. This computation is necessary for the determination of Medicaid eligibility for institutionalized individuals with a community spouse. Section 1924 of the Act is mandated for eligibility determinations of institutionalized individuals with a community spouse in all States and the District of Columbia (§1924(a)(4)(B)). The regulation makes clear that it is the responsibility of the Medicaid applicant and his community spouse to provide the required information and failure to provide the information necessary to complete the mandatory assessment will result in denial of the Medicaid application. Section 1924(c)(1)(B) of the Act specifically provides that the resource assessment is to be completed only after receipt of relevant documentation of resources. Without knowledge of the resources of the community spouse, the resource assessment cannot be completed and the eligibility of the institutionalized spouse cannot be determined. When eligibility cannot be determined, the application for assistance cannot be approved.

12VAC30-110-744 Resource assessment initiated.

This regulation is moved from 12VAC30-110-740 and reworded to conform to the requirements of §1924(c)(1)(A) and (B) of the Act that mandates when a resource assessment must be initiated. The regulation has been reworded to indicate that the resource assessment shall be initiated if:

? requested by an institutionalized spouse, a community spouse, or a representative acting on behalf of either spouse, at the time one spouse first begins a continuous period of institutionalization, if certain conditions are met; or

? when an application for Medicaid is made by, or on behalf of, an institutionalized spouse.

12VAC30-110-747 Total Resources.

This regulation is added to conform with the requirements of §1924(c)(1)(A) of the Act which mandates that the total value of resources owned by the institutional spouse and the community spouse be computed as of the beginning of the first continuous period of institutionalization of the institutional spouse.

12VAC30-110-751 Spousal Share.

This regulation is added to specify how the spousal share is calculated as required by §1924(c)(1)(A)(ii) of the Act.

12VAC30-110-760 Failure to provide documentation.

The wording of the regulation is revised to clarify that the provision refers to the documentation necessary to complete the required resource assessment and to correct the cross-reference citation.

12VAC30-110-780 Appeal of resource assessment.

The regulation is reworded for clarity. No change has been made in the substance of the regulation.

**12VAC30-110-790 Applicability.**

The regulation is reworded for clarity. No substantive change in the regulation is made.

**12VAC30-110-800 Initial eligibility determinations.**

Incorrect cross-reference citations are removed and terminology is corrected. The regulation is clarified to indicate that the regulation pertains to resource eligibility requirements at the time of application for medical assistance. The wording is corrected to reflect that the spousal protected resource amount is a component of the initial eligibility determination. The community spouse resource allowance is not a component of the initial eligibility determination. Instead it is a component of the post-eligibility transfer of resources from the institutionalized spouse to the community spouse.

**12VAC30-110-810 Initial determinations of ineligibility.**

The regulation is substantially revised because the current regulations are confusing and inaccurate. The reference that eligibility occurs when the couple's combined countable resources are reduced to the greatest of the amounts listed does not accurately reflect the requirements of §1924 of the Act. The list referenced in the current regulation is related to the calculation of the spousal protected resource amount (1924(f)(2)(A)) not the eligibility of the institutionalized spouse.

**12VAC30-110-813 Attribution of resources at the time of initial eligibility determination.**

This regulation is added to reflect the requirements of §1924(c)(2)(A) of the Act.

**12VAC30-110-815 Spousal protected resource amount.**

This regulation is added to reflect the requirements of §1924(c)(2)(B) of the Act.

**12VAC30-110-820 Revisions to the community spouse resource allowance.**

The regulation is being repealed and its provisions are moved to 12VAC30-110-852. There is no change in the wording of the regulation. The purpose of the relocation is to consolidate all regulations pertaining to the community spouse resource allowance in one location.

**12VAC30-110-830 Additional resource exclusions.**

The regulation is revised to remove any reference to disregarding resources when an institutionalized spouse has assigned support rights to the Commonwealth. The federal law at §1924(c)(3) provides that resources shall be disregarded when the institutionalized spouse has assigned to the state any rights to support of the community spouse or when the institutionalized spouse lacks the ability to execute such an assignment because of a physical or mental impairment but the state has the right to bring a support proceeding against a community spouse without such assignment. However, Virginia state law does not grant the Department of Medical Assistance Services any authority to compel an applicant to assign all spousal support rights from his community spouse to the Commonwealth or the authority to pursue support from a community spouse on behalf of an incapacitated institutionalized spouse. The disregard contemplated in the federal law cannot be legally made in Virginia. Therefore, this exclusion is removed from these regulations.

**12 VAC30-110-840 Redetermination of eligibility of institutionalized spouses.**

The regulation is revised for clarity. The title of the regulation is changed from “Redetermination of eligibility for the institutionalized spouse” to “Separate treatment of resources after eligibility for benefits established” which is more descriptive of the regulation’s content. An incorrect cross-reference citation is removed and the final sentence is revised for clarity. The regulation is not substantively changed.

12 VAC30-110-850 Post-eligibility resource transfers.

The regulation is revised for clarity and accuracy. This regulation spells out the right of the institutionalized spouse to transfer to the community spouse any resources titled to the institutionalized spouse which are identified as part of the community spouse resource allowance after eligibility has been established and during the protected period. The second sentence of the regulation was revised to make it clear that any resources still in the name of the institutionalized spouse which he fails to or chooses not to make available to the community spouse during the protected period will be counted in determining the ongoing eligibility of the institutionalized spouse. This complies with §1924(f) that disregards resources in the name of the institutionalized spouse, which are transferred to the ownership of the community spouse as part of the community spouse resource allowance.

12VAC30-110-853 Community spouse resource allowance.

This regulation section new and contains language formerly in a definition. It describes how the community spouse resource allowance is calculated and complies with §1924(f)(2) of the Act.

12VAC30-110-856 Revisions to the community spouse resource allowance.

The regulation is moved from 12VAC30-110-820. The wording is the same.

12VAC30-110-860 Protected periods of eligibility.

The regulation is revised for clarity. This regulation describes the period during which the institutionalized individual’s eligibility is protected even though he owns resources in his own name exceeding the resource limit. During this time, the institutionalized individual may transfer these excess resources to the community spouse as the community spouse resource allowance. The regulation is revised to define how the institutionalized spouse must indicate his intention to make such a transfer. Because the federal law mandates that such a transfer must be made in order for the disregard to be given, it is necessary for the institutionalized spouse to demonstrate his intention. The prior regulation was unclear because it only stated that the spouse must expressly indicate this intention without defining by what method this intention could be expressed.

The regulation had permitted the Department to extend the protected period if it found an extension necessary. However, this language does not meet the requirements for a regulation in that it was vague and nondescriptive. Therefore, the language is being removed. In addition, a sentence is being added to specify the date the protected period begins. This language complies with §1924(f)(1) of the Act that specifies that the period must begin on the date of initial determination. The date of determination has always been regarded as the date the local department of social services takes the action to approve a pending application. This interpretation gives the applicant the most benefit from the protected period.

12VAC30-110-870 Exception to protected period of eligibility.

The regulation is revised to correct the language. The incorrect term “community spouse resource allowance” in the first sentence is removed and replaced with “spousal protected resource amount”. The total amount of the couple’s resources to be disregarded is the spousal protected resource amount. The community spouse resource allowance is the amount of the institutionalized spouse’s resources that are available to be transferred to the community spouse to bring the community spouse’s resources up to the protected resource amount. The final sentence is removed because it is not germane to this regulation. The sentence pertains to transfers of resources and not to the protected period of eligibility. Regulations regarding transfers of resources between spouses subject to §1917 of the Act are found at 12VAC30-40-210 and 12VAC30-40-300.

12VAC30-110-880 Additional resources acquired during protected period of eligibility.

The regulation is revised for clarity. No substantive change to the regulation has been made.

12VAC30-110-890 Resources transferred pursuant to §1917 of the Act.

The regulation is repealed. This language is redundant to language found in 12VAC30-110-812, 820, 831, 850, and 860.

12VAC30-110-900 Resource eligibility determinations in retroactive months.

The regulation is revised for clarity. No substantive change to the regulation is made. The regulation distinguishes between first applications for Medicaid and later applications. Wording was added to clarify (1) how later applications are handled when eligibility for Medicaid has previously been established and (2) when earlier applications have been filed but Medicaid eligibility has never been established. The regulation complies with §1924(c)(4) of the Act.

12 VAC30-110-910 Eligibility for community spouses and other family members.

The regulation is revised for clarity. The regulation emphasizes that these regulations are not used to determine Medicaid eligibility for non-institutionalized family members. The current regulations were not clearly written.

12VAC30-110-920 Applicability.

The regulation is revised for clarity and accuracy. The regulation is reorganized to separate the eligibility treatment of income from the post-eligibility treatment of income. This section and 12 VAC 30-110-921 apply to how income is counted in establishing Medicaid eligibility for the institutionalized spouse. Regulations pertaining to the manner in which income is treated after eligibility has been established (post-eligibility) have been placed in 12VAC30-110-940.

12 VAC30-110-921. Rules for treatment of income.

Previously existing language has been subdivided and modified slightly for clarity.

12VAC30-110-940 Applicability.

The regulation is reworded to clarify that the regulation pertains to the post-eligibility treatment of the income of an institutionalized spouse. No substantive change has been made in the regulation.

12VAC30-110-950 Mandatory deductions from institutionalized spouse's income.

The regulation is revised for clarity by specifying that the community spouse allowance referred to is the "monthly income" allowance.

12VAC30-110-960 Community spouse maintenance allowance.

The regulation is revised to be in compliance with federal law. The term "maintenance" allowance is changed to the "monthly income allowance" to conform to the terminology found in §1924(d)(2) of the Act. In A., item two is removed because it is incorrect. The community spouse income allowance is not an amount set in a court order for support. This would violate §1924(d)(5) of the Act. Item C is added to conform the regulation to §1924(d)(5). Section 1924(d)(2) and (3) describe how the community spouse income allowance is calculated. It requires that the community spouse income allowance be the amount by which the greatest of:

? the monthly maintenance needs standard plus an excess shelter allowance (if the spouse is entitled to it); or

? a higher amount, if any, set by a Department hearing officer, exceeds the amount of income otherwise available to the community spouse. Thus, the community spouse's own income is deducted from the minimum monthly maintenance needs standard in order to determine the amount of the community spouse monthly income allowance. However, §1924(d)(5) of the Act mandates that if a court has entered a spousal support order against the income of the institutionalized spouse, the community spouse monthly income allowance may not be less than the amount the court has ordered. In that case, the community spouse's own income is not deducted from the minimum monthly maintenance needs standard. The amount of the monthly income the court has ordered the institutional spouse to pay to the community spouse must be substituted for the amount calculated under item A. To do otherwise would result in an income allowance less than the amount of the court ordered support.

12VAC30-110-970 Family member's maintenance needs allowance.

The regulation is revised for clarity. No substantive change in the regulation has been made.

12VAC30-110-980 Applicability.

The regulation was revised to reflect the requirements of §1924(c)(1)(B) of the Act that the findings of a resource assessment are subject to the fair hearings requirements of §1924(e)(2). In addition, the regulation is revised to apply also to individuals receiving hospice services.

12VAC30-110-990 Notices

The regulation is revised to comply with §1924(c)(1)(B) that requires that the state must provide a copy of the resource assessment to both the institutionalized spouse and the community spouse including notification that he or she has the right to a fair hearing.

12VAC30-110-1010 Hearing officer authority.

The regulation is revised to clarify that a Department hearing officer has the authority to revise both the income and resource allowances in accordance with federal law at §1924(e)(2)(B) and (C) of the Act.

12VAC30-110-1011 Appealable issues.

The regulation is added to summarize all of the issues included in §1924, which are subject to the fair hearing and appeals requirements of §1924(e) of the Social Security Act.

The OAG's certification as to the agency's authority to promulgate these regulatory changes was dated .

### Family Impact Statement

*Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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This regulatory action will not have any negative affects on the institution of the family or family stability. It will not increase or decrease disposable family income or erode the marital commitment. It will not discourage economic self-sufficiency, self-pride, nor the assumption of family responsibilities. The regulation will promote the stability of marriages when one spouse enters long-term care by protecting the community spouse from impoverishment, thus enabling the community spouse to maintain his or her independence in the community.